

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 BERNARD CURTIS DAVIS,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.

15 CASE NO. C13-5438 RBL

16 ORDER DENYING CERTIFICATE
17 OF APPEALABILITY

18 THIS MATTER is before the Court on Petitioner Davis's Motion for a Certificate of
19 Appealability on his 28 U.S.C. §2255 claim. The Motion tracks his underlying §2255 very
20 closely.

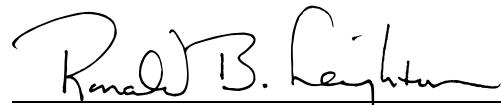
21 The district court should grant an application for a Certificate of Appealability only if the
22 petitioner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. §
23 2253(c)(2). To obtain a Certificate of Appealability under 28 U.S.C. § 2253(c), a habeas
24 petitioner must make a showing that reasonable jurists could debate whether, or agree that, the
petition should have been resolved in a different manner or that the issues presented were
adequate to deserve encouragement to proceed further. *Slack v. McDaniel*, 120 S.Ct. 1595,
1603-04 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). When the court

1 denies a claim on procedural grounds, the petitioner must show that jurists of reason would find
2 it debatable whether the petition states a valid claim of the denial of a constitutional right *and*
3 that jurists of reason would find it debatable whether the district court was correct in its
4 procedural ruling. *Slack v. McDaniel*, 120 S.Ct. at 1604.

5 For the reasons stated in this Court's Order [Dkt. #11], Petitioner has failed to make "a
6 substantial showing of a denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Accordingly,
7 the Motion for a Certificate of Appealability is DENIED.

8 **IT IS SO ORDERED.**

9
10 Dated this 14th day of May, 2014.

11
12 
RONALD B. LEIGHTON

13 UNITED STATES DISTRICT JUDGE

14
15
16
17
18
19
20
21
22
23
24